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SEP 23 2002

OFFICE OF PETITIONS

In re Application of :  
Louis V. Pinkham :  
Application No. 09/930,572 : ON PETITION  
Filed: 15 August, 2001 :  
Attorney Docket No. Pinkham-767RE :

This is a decision on the petition under 37 CFR 1.137(b),<sup>1</sup> filed on 1 May, 2002, to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

On 15 August, 2001, the present application was filed. On 1 October, 2001, a "Reissue Supplement--Notice to File Missing Parts of Application" was mailed, requiring a reissue specification provided in double-column format as is required by

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

37 CFR 1.73(a)(1), and stating that the missing part must be filed within the period for reply set on the attached form to avoid abandonment.

In response, on 1 May, 2002, the present petition was filed, accompanied by the double-column format reissue specification and drawings.

A review of the Official file reveals that no Notice to File Missing Parts setting a period for reply mailed with the Reissue Supplement is located therein. As such, it appears that a Notice to File Missing Parts setting a time period for reply was never mailed. As the Reissue Supplement did not itself set a time period for reply, no period for reply was set. Consequently, the application is not abandoned. The petition under 37 CFR 1.137(b) is therefore unnecessary and is dismissed as moot.

The petition fee of \$1,280.00 will be credited to counsel's deposit account, No. 04-1679.

The address listed on the petition filed on 1 May, 2002, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



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